

losses which in the opinion of the district director are in excess of the actual liability determined as provided in the preceding sentence will be disallowed as a deduction. The district director may require any such insurance company to submit such detailed information with respect to its actual experience as is deemed necessary to establish the reasonableness of the deduction for "losses incurred".

(c) That part of the deduction for "losses incurred" which represents an adjustment to losses paid for salvage and reinsurance recoverable shall, except as hereinafter provided, include all salvage in course of liquidation, and all reinsurance in process of collection not otherwise taken into account as a reduction of losses paid, outstanding at the end of the taxable year. Salvage in course of liquidation includes all property (other than cash), real or personal, tangible or intangible, except that which may not be included by reason of express statutory provisions (or rules and regulations of an insurance department) of any State or Territory or the District of Columbia in which the company transacts business. Such salvage in course of liquidation shall be taken into account to the extent of the value thereof at the end of the taxable year as determined from a fair and reasonable estimate based upon either the facts in each case or the company's experience with similar cases. Cash received during the taxable year with respect to items of salvage or reinsurance shall be taken into account in computing losses paid during such taxable year.

(d) This section is effective for taxable years beginning before January 1, 1990.

[T.D. 8266, 54 FR 38970, Sept. 22, 1989; T.D. 8293, 55 FR 9425, Mar. 14, 1990]

§ 1.833-1 Medical Loss Ratio under section 833(c)(5).

(a) *In general.* Section 833 does not apply to an organization unless the organization's medical loss ratio (MLR) for a taxable year is at least 85 percent. Paragraph (b) of this section provides definitions that apply for purposes of section 833(c)(5) and this section. Paragraph (c) of this section provides rules for computing an organization's MLR

under section 833(c)(5). Paragraph (d) of this section addresses the treatment under section 833 of an organization that has an MLR of less than 85 percent. Paragraph (e) of this section provides the effective/applicability date.

(b) *Definitions.* The following definitions apply for purposes of section 833(c)(5) and this section.

(1) *Reimbursement for clinical services provided to enrollees.* The term *reimbursement for clinical services provided to enrollees* has the same meaning as that term has in section 300gg-18 of title 42, United States Code and the regulations issued under that section (see 45 CFR 158.140).

(2) *Total premium revenue.* The term *total premium revenue* means the total amount of premium revenue (excluding Federal and State taxes and licensing or regulatory fees and after accounting for payments or receipts for risk adjustment, risk corridors, and reinsurance under sections 1341, 1342, and 1343 of the Patient Protection and Affordable Care Act, Public Law 111-148 (124 Stat. 119 (2010)) (42 U.S.C. sections 18061, 18062, and 18063)) as those terms are used for purposes of section 300gg-18(b) of title 42, United States Code and the regulations issued under that section (see 45 CFR Part 158).

(c) *Computation of MLR under section 833(c)(5)*—(1) *In general.* Starting with the first taxable year beginning after December 31, 2015, and for all succeeding taxable years, an organization's MLR with respect to a taxable year is the ratio, expressed as a percentage, of the MLR numerator, as described in paragraph (c)(1)(i) of this section, to the MLR denominator, as described in paragraph (c)(1)(ii) of this section.

(i) *MLR numerator.* The numerator of an organization's MLR is the total premium revenue expended on reimbursement for clinical services provided to enrollees under its policies for the taxable year, computed using a three-year period in the same manner as those expenses are computed for the plan year for purposes of section 300gg-18(b) of title 42, United States Code and regulations issued under that section (see 45 CFR Part 158).

(ii) *MLR denominator.* The denominator of an organization's MLR is the

organization's total premium revenue for the taxable year, computed using a three-year period in the same manner as the total premium revenue is computed for the plan year for purposes of section 300gg-18(b) of title 42, United States Code and regulations issued under that section (see 45 CFR Part 158).

(2) *Transition rules.* The transition rules in paragraphs (c)(2)(i) and (c)(2)(ii) of this section apply solely for the first taxable year beginning after December 31, 2013, and the first taxable year beginning after December 31, 2014.

(i) *First taxable year beginning after December 31, 2013.* For the first taxable year beginning after December 31, 2013, the numerator of an organization's MLR is the total premium revenue expended on reimbursement for clinical services provided to enrollees under its policies for the first taxable year beginning after December 31, 2013, and the denominator of an organization's MLR is the organization's total premium revenue for the first taxable year beginning after December 31, 2013.

(ii) *First taxable year beginning after December 31, 2014.* For the first taxable year beginning after December 31, 2014, the numerator of an organization's MLR is the sum of the total premium revenue expended on reimbursement for clinical services provided to enrollees under its policies for the first taxable year beginning after December 31, 2013, and for the first taxable year beginning after December 31, 2014, and the denominator of an organization's MLR is the sum of the organization's total premium revenue for the first taxable year beginning after December 31, 2013, and for the first taxable year beginning after December 31, 2014.

(d) *Failure to qualify under section 833(c)(5)—(1) In general.* If, for any taxable year, an organization's MLR is less than 85 percent, then beginning in that taxable year and for each subsequent taxable year for which the organization's MLR remains less than 85 percent, paragraphs (d)(1)(i) through (d)(1)(iii) of this section apply.

(i) *Automatic stock insurance company status.* The organization is not taxable as a stock insurance company by reason of section 833(a)(1), but may be taxable as an insurance company if it oth-

erwise meets the requirements of section 831(c);

(ii) *Special deduction.* The organization is not allowed the special deduction set forth in section 833(b); and

(iii) *Premiums earned.* The organization must take into account 80 percent, rather than 100 percent, of its unearned premiums under section 832(b)(4) as it applies to other non-life insurance companies, provided the organization qualifies as an insurance company by meeting the requirements of section 831(c).

(2) *No material change.* An organization's loss of eligibility for treatment under section 833 solely by reason of section 833(c)(5) will not be treated as a material change in the operations of such organization or in its structure for purposes of section 833(c)(2)(C).

(e) *Effective/applicability date.* This section applies to taxable years beginning after December 31, 2013.

[T.D. 9651, 79 FR 757, Jan. 7, 2014]

§ 1.846-0 Outline of provisions.

The following is a list of the headings in §§ 1.846-1 through 1.846-4.

§ 1.846-1 Application of discount factors.

- (a) In general.
 - (1) Rules.
 - (2) Examples.
 - (3) Increase in discounted unpaid losses shown on the annual statement.
 - (4) Increase in unpaid losses which take into account estimated salvage recoverable.
 - (b) Applicable discount factors.
 - (1) In general.
 - (i) Discount factors published by the Service.
 - (ii) Composite discount factors.
 - (iii) Annual statement changes.
 - (2) Title insurance company reserves.
 - (3) Reinsurance business.
 - (i) Proportional reinsurance for accident years after 1987.
 - (ii) Non-proportional reinsurance.
 - (A) Accident years after 1991.
 - (B) Accident years 1988 through 1991.
 - (iii) Reinsurance for accident years before 1988.
 - (iv) 90 percent exception.
 - (4) International business.
 - (5) Composite discount factors.

§ 1.846-2 Election by taxpayer to use its own historical loss payment pattern.

- (a) In general.
 - (b) Eligible line of business.
 - (1) In general.